

Message

From: Fallon, Gail [fallon.gail@epa.gov]
Sent: 10/10/2018 7:36:17 PM
To: Law, Donald [Law.Donald@epa.gov]; Wauters, Patrick [wauters.patrick@epa.gov]
Subject: FW: Past work on Coyote Station source determination
Attachments: Coyote Creek - ND response 01-21-2016.pdf; December letter from Voigts to EPA.pdf

From: Denawa, Mai
Sent: Wednesday, October 10, 2018 10:06 AM
To: Laumann, Sara <Laumann.Sara@epa.gov>; Fallon, Gail <fallon.gail@epa.gov>
Subject: RE: Past work on Coyote Station source determination

Yes, we had a conference call with ND, that was captured in a letter that ND sent, and we had some issues with it.

Sorry I am a little bit rusty on air issues, but does ND's "common control" question relate to how coal prep and processing emissions are calculated in any way? Maybe the types of controls required are triggered by whether a source is categorized as a minor versus major source? If so, I recall we didn't agree with the state's interpretation on the coal plant at issue in the Voigt litigation—which was the topic of discussion in the conference call we had back in January 2016. I'll attach what I have on file. The Voigts had also sent EPA a letter (it was not a Notice of Intent to Sue but I think it was more of a heads up to EPA that the Voigts intended to raise the issue with the state and Coyote Creek). I've also attached it here.

Let me know if you'd like to further discuss.

From: Laumann, Sara
Sent: Wednesday, October 10, 2018 10:00 AM
To: Fallon, Gail <fallon.gail@epa.gov>; Denawa, Mai <Denawa.Mai@epa.gov>
Subject: RE: Past work on Coyote Station source determination

Mai
Did we end up sending them a letter or email, or have an official conversation? I thought one or more of those options was under consideration back in the day.

Sara L. Laumann • Senior Assistant Regional Counsel • US EPA Region 8 • (303) 312-6443

From: Fallon, Gail
Sent: Wednesday, October 10, 2018 9:58 AM
To: Denawa, Mai <Denawa.Mai@epa.gov>; Laumann, Sara <Laumann.Sara@epa.gov>
Subject: RE: Past work on Coyote Station source determination

Sara and Mai - Thanks to you both for thinking about this. Maybe we don't need to worry too much about any past source determination for the power plant and mine based on what I'm hearing from you. I'll also see if I can informally confirm with my state counterpart whether or not ND received an EPA opinion on this in the past.

Gail

From: Denawa, Mai
Sent: Wednesday, October 10, 2018 9:43 AM
To: Laumann, Sara <Laumann.Sara@epa.gov>; Fallon, Gail <fallon.gail@epa.gov>
Subject: RE: Past work on Coyote Station source determination

Hi Gail and Sara,

Yes—Steve and I worked on the issue of the state's issuance of a minor source permit instead of a major source permit related to one of Coyote Creek's mines in North Dakota. The issue was interpretation of the coal preparation and processing regulations—and whether these include certain emissions (coal piles) that would count toward whether the source was a minor or major source.

The District Court of North Dakota issued a decision and I have attached the summary of it here in case Sara hasn't seen it yet.

Please let me know if you have any other questions or if I can help further.

Thanks,
Mai

From: Laumann, Sara
Sent: Tuesday, October 9, 2018 6:16 PM
To: Fallon, Gail <fallon.gail@epa.gov>
Cc: Denawa, Mai <Denawa.Mai@epa.gov>
Subject: RE: Past work on Coyote Station source determination

Hi Gail

I'm not aware of us taking a position on Coyote Creek wrt common control. The topics I'm aware of where EPA has taken positions, or considered taking positions, include: the State's RP determination for RH and issues raised in third party litigation about the State's issuance of a minor source permit instead of a major source permit. Jonah was involved in the former, and I believe Mai was involved in the more recent issues, so I'm copying her here.

-Sara

Sara L. Laumann • Senior Assistant Regional Counsel • US EPA Region 8 • (303) 312-6443

From: Fallon, Gail
Sent: Tuesday, October 9, 2018 5:16 PM
To: Laumann, Sara <Laumann.Sara@epa.gov>
Subject: Past work on Coyote Station source determination

Hi Sara – This is about the ND request for EPA's position on common control for Coyote Station and the Coyote Creek Mine. Patrick is out on vacation this week and DJ is pitching in while he's out. Patrick was not able to find anything in his cubicle files on a past Coyote power plant source determination that Mike Owens may have been involved with. We plan to keep checking in the Records Center and have provided a few state documents to OAQPS. I don't know if it's important to sort out our past position on this, but it seemed like we might want to explain why we've changed our mind (if that is indeed the case). **Do you recall working with Mike on this in the past?**

I wasn't sure when to pull you in. I thought we might wait until things progress a bit with OAQPS first to help focus your efforts.

Thanks!

Gail

Gail Fallon

Acting Air Permitting and Monitoring Unit Chief

EPA Region 8

1595 Wynkoop Street, Mail Code 8P-AR

Denver, CO 80202

(303) 312-6281